IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No.6391 of 2006

Sameer Manohar Joshi ..Petitioner

vs.

Mrs.Manisha Sameer Joshi ..Respondent

Shri Abhijit Sarwate with Smt.Kokila Kalra for petitioner.
Shri S.N.Chandrachud for respondent.

CORAM: S.C.DHARMADHIARI J.
14th December, 2007

P.C.

1. The order below Exh.73 has been passed on 31st August, 2006 and this Court while issuing notice has stayed the proceedings. Thus final hearing of the suit before the Trial Court has been stayed. The stay is operating from 23rd April, 2007.

2. The learned Judge has not adverted to the principles of law so also the relevant provisions which enable the party to place on record the taperecorded conversation. The learned Judge has rejected the application on the ground that burden is on the petitioner. The question of burden alone would not be relevant. The question is whether the

transcript which is already placed on record can be used for contradicting the witness is the submission. A tape recorded conversation can be used for contradicting the witness of the petitioner. Since the impugned order has been stayed and even further proceedings are stayed, interest of justice would be subserved if the petitioner is permitted to apply afresh and reiterate his earlier request. The petitioner's fresh application with regard to the tape recorded conversation being allowed to be relied upon or such statements be permitted for cross examining the wife must be decided on merits and in accordance with law uninfluenced by the earlier order. All contentions of both sides are kept open. Petition is disposed of.

(S.C.DHARMADHIKARI J.)